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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of)
Sections 309(j) of)
the Communications Act)
)
Competitive Bidding)

PP Docket No. 93-253

To: The Commission

COMMENTS OF THE
INDUSTRIAL TELECOMMUNICATIONS ASSOCIATION, INC.

The Industrial Telecommunications Association, Inc. ("ITA"), pursuant to the Federal Communications Commission's Notice of Proposed Rule Making in the above-referenced matter, hereby respectfully submits these Comments responsive to the Commission's proposal.¹

I. PRELIMINARY STATEMENT

1. The Industrial Telecommunications Association, formerly the Special Industrial Radio Service Association, Inc., is a non-profit association organized under the laws of the District of Columbia. ITA is the Commission's certified frequency coordinator for the Special Industrial Radio Service and the Industrial/Land Transportation 800/900 MHz frequency "pools". ITA also coordinates channels from the general access pool for those entities (a) eligible to become Industrial/Land Transportation licensees, (b)

¹ Notice of Proposed Rule Making (FCC 93-455), PP Docket No. 93-253, adopted September 23, 1993, released October 12, 1993, (hereinafter "Notice").

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wishing to expand trunked systems, or (c) consolidating conventional systems into a trunked system. ITA coordinates in excess of 6,000 applications per year on behalf of applicants seeking Commission authority to operate radio stations on frequency assignments allocated to the Special Industrial Radio Service and the enumerated 800/900 MHz frequency "pools".

2. ITA enjoys the support of a membership that includes more than 9,000 licensed two-way land mobile radio communications users and the following trade associations:

Alliance of Motion Picture and Television Producers
American Mining Congress
Associated Builders & Contractors, Inc.
Florida Citrus Processors Association
Florida Fruit & Vegetable Association
National Aggregates Association
National Agricultural Aviation Association
National Food Processors Association
National Propane Gas Association
National Ready-Mixed Concrete Association
National Utility Contractors Association
New England Fuel Institute
United States Telephone Association

II. COMMENTS

3. The Commission's Notice presents a number of important issues relating to the implementation of statutorily mandated competitive bidding procedures. Those issues relating to the use of competitive bidding procedures in the private radio services are of particular interest to ITA and are the subject of these Comments.

4. In ITA's view, the observations made in the Commission's proposal regarding the "actionability" of the private radio services are, in general, accurate and insightful. As the Commission has concluded, competitive bidding will not be relevant for most of the private radio services, either due to absence of mutually exclusive applications, the fact that most services do not serve "paying subscribers", or for other reasons.

5. While ITA believes that the Commission's treatment of the private radio services in this proposal is reasonable and well-founded, ITA is concerned that the proposal does not give proper recognition to the role of the private land mobile frequency coordinators. The frequency coordination process is particularly relevant to the matters under consideration in this proceeding because it constitutes a major reason why auctions are not relevant to many of the private land mobile frequencies.

6. To illustrate, the Notice concludes that the General Category frequencies and 800/900 MHz frequencies applied for on an intercategory sharing basis should not be subject to competitive bidding. ITA believes that this conclusion is proper. The Notice reaches this conclusion because "this spectrum is not allocated principally for subscriber-based services". There is, however, a more fundamental reason why competitive bidding is not applicable to General Category frequencies and frequencies applied for under intercategory sharing procedures. These frequencies are subject to mandatory frequency coordination, and with frequency coordination, instances of mutual exclusivity are extremely rare.

7. For both General Category frequencies and frequencies applied for under intercategory sharing, the coordination and application process effectively eliminates the possibility of mutually exclusive applications. Frequencies are coordinated on a first-come, first-served basis and filed with the Commission on the same basis. The first-filed application has priority over later-filed applications. In the absence of the coordination process, there might be mutually exclusive applications filed with the Commission. With coordination, however, the Commission will never reach the point of having to decide between two or more mutually exclusive applications for General Category frequencies and frequencies requested under intercategory sharing.

8. ITA agrees with other conclusions which the Commission has reached regarding the private radio service frequencies. ITA supports the Commission's proposal to allow the "principal use" of radio frequencies to dictate whether competitive bidding procedures should apply. The Commission should not have to examine individual applications to assess whether the use proposed by a specific applicant warrants competitive bidding. Rather, the principal use of the relevant class of licenses should be determinative.

9. ITA also agrees with the Commission's conclusion that competitive bidding procedures are not applicable "in many services regulated by the Private Radio Bureau . . . because the channels are shared by numerous licensees".²

² Notice, paragraph 22.

WHEREFORE, THE PREMISES CONSIDERED, the Industrial Telecommunications Association, Inc., respectfully submits these Comments and urges the Federal Communications Commission to act in accordance with the views expressed herein.

INDUSTRIAL TELECOMMUNICATIONS
ASSOCIATION, INC.

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